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DEPT. OF REAL ESTATE
By [Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation Against)	DRE No. H-05343 SD
)	
)	
STEPHEN WILLIAM SMITH JR,)	
)	<u>ACCUSATION</u>
Respondent.)	
)	

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, for cause of Accusation against STEPHEN WILLIAM SMITH JR (Respondent), alleges as follows:

1.

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.

2.

All references to the "Code" are to the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code.

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ACCUSATION

1 LICENSE HISTORY

2 3.

3 a. Respondent is presently licensed and/or has license rights under the Code, as a
4 restricted real estate salesperson with Department of Real Estate (Department) license ID
5 01983156.

6 b. Respondent's salesperson license was originally issued on September 12,
7 2016, and is scheduled to expire on June 20, 2025, unless renewed.

8 c. On or about August 2, 2021, Respondent surrendered his Mortgage Loan
9 Originator (MLO) license endorsement with the Department with the assigned National
10 Mortgage Licensing System and Registry (NMLS) No. 1018582. The Department retains
11 jurisdiction of the surrendered license endorsement pursuant to Code section 10103 and Section
12 2945.4 of Title 10, Chapter 6, of the California Code of Regulations.

13 STATEMENT OF FACTS

14 4.

15 Respondent violated the NMLS student Rules of Conduct (ROC) by using the
16 services of Danny Yen, dba Real Estate Educational Services (REES) to complete his NMLS-
17 approved continuing education (CE) courses, which constitutes a violation of the licensing
18 requirements of this state and under federal law. Specifically, Respondent used REES to obtain
19 credit through an in-person fraud scheme. Under the in-person fraud scheme, Respondent used
20 REES to annually report completion of an in-person course for three years from 2018 to 2020.
21 REES did not teach the in-person course and Respondent never attended the in-person course
22 nor completed the required exam or course work to receive course credit.

23 NMLS Pre-Licensing and Continuing Education

24 5.

25 The State Regulatory Registry LLC (SRR), which owns and operates the
26 NMLS, administers pre-licensing education (PE) and CE and Uniform State Test protocols.
27 Title V of Public Law 110-289, the Secure and Fair Enforcement for Mortgage Licensing Act

1 of 2008 (the SAFE Act), requires that state-licensed MLOs complete PE prior to initial
2 licensure and annual CE thereafter. (See Code section 10166.06.)

3 6.

4 In order to meet PE requirements contemplated under the SAFE Act, state-
5 licensed MLOs must complete twenty (20) hours of NMLS-approved education. (Code section
6 10166.06(a).)

7 7.

8 In order to meet CE requirements contemplated under the SAFE Act, state-
9 licensed MLOs must complete eight (8) hours of NMLS-approved education. (Code section
10 10166.10(a).)

11 REES

12 8.

13 REES, with NMLS course provider number 1405046, was an NMLS-approved
14 course provider during the years 2017 to 2020.

15 9.

16 The NMLS had approved REES to offer one in-person 8-hour "DBO-SAFE Act
17 Comprehensive: Mortgage Continuing Education" course in a classroom format located at
18 15751 Brookhurst Street, Suite 230, Westminster, California (Westminster address).

19 10.

20 REES was never approved by the NMLS to offer online PE or CE to MLOs.

21 11.

22 During all times relevant herein, REES had its primary place of business located
23 at 3643 Adams Street, Carlsbad, California.

24 REES Investigation

25 12.

26 The Mortgage Testing and Education Board (MTEB), which was created by
27 SRR, has approved "Administrative Action Procedures for S.A.F.E. Testing and Education

1 Requirements” (AAP), which extends administrative authority to the MTEB to investigate
2 alleged violations of the NMLS student Rules of Conduct (ROC).

3 13.

4 The AAP also extends administrative authority to the MTEB and SRR to
5 investigate alleged violations of the NMLS Standards of Conduct (SOC), which apply to all
6 NMLS–Approved course providers.

7 14.

8 In late 2020, SRR obtained information concerning suspicious activity and that
9 that information identified a possible MLO education cheating scheme coordinated by and
10 implemented through REES and its owners and operators, including Danny Yen. Based on that
11 information, and pursuant to the AAP, SRR initiated an investigation into the matter.

12 Findings of SRR and Department Investigation

13 15.

14 On or about December 15, 2020, SRR staff were informed of suspected
15 individuals completing online NMLS–approved education courses on behalf of another.

16 16.

17 Additional investigation revealed evidence that REES fraudulently provided
18 course credit to MLOs who had never attended and completed REES’ 8-hour in-person CE
19 course in Westminster, California in the in-person fraud scheme.

20 17.

21 Respondent was identified in NMLS records as receiving course credit for
22 REES’ 8-hour in-person CE course in 2018, 2019, and 2020. It was determined that none of
23 these in-person courses ever took place and Respondent never attended an in-person course
24 corresponding to the course credits Respondent received. Consequently, Respondent never took
25 a knowledge examination required for course credit. It was determined that Respondent had
26 used REES to obtain three years of course credits from 2018 to 2020 in violation of the ROC
27 under the in-person fraud scheme.

1 18.

2 The ROC provide in relevant part:

3 ROC 3: I understand that the SAFE Act and state laws require me to spend a
4 specific amount of time in specific subject areas. Accordingly, I will not attempt to circumvent
5 the requirements of any NMLS approved course.

6 ROC 5: I will not seek or attempt to seek outside assistance to complete the
7 course.

8 ROC 8: I will not engage in any capacity that would be contrary to good
9 character or reputation, or engage in any behavior that would cause the public to believe that I
10 would not operate in the mortgage loan business lawfully, honestly or fairly.

11 ROC 9: I will not engage in any conduct that is dishonest, fraudulent, or would
12 adversely impact the integrity of the course(s) I am completing and the conditions for which I
13 am seeking licensure or renewal of licensure.

14 19.

15 By using the services of another to complete his CE and receiving fraudulent
16 course credits through a non-existent course, Respondent violated ROC 3, 5, 8, and 9, and
17 engaged in conduct that was dishonest, fraudulent, and that adversely impacted the integrity of
18 the courses and the conditions and qualifications for which Respondent sought licensure or
19 renewal of licensure.

20 Financial Responsibility, Character, and General Fitness

21 20.

22 Pursuant to Code section 10166.05(c), the Commissioner must deny a MLO
23 license endorsement if the licensee fails to meet the minimum criteria for licensure, which
24 includes a requirement that the applicant "has demonstrated such financial responsibility,
25 character and general fitness as to command the confidence of the community and to warrant a
26 determination that the [MLO] will operate honestly, fairly, and efficiently within the purposes
27 of this division."

1 21.

2 As described in paragraphs 15 through 19 above, Respondent violated ROC 3, 5,
3 8 and 9 by using the services of another, REES, to falsely obtain course credits through an in-
4 person course that Respondent never attended for the years 2018 to 2020.

5 22.

6 In violating the ROC by using the services of another to falsely obtain course
7 credits, Respondent does not meet the minimum criteria for licensure under Code section
8 10166.05(c). The conduct of Respondent, as alleged above, is grounds for the suspension or
9 revocation of Respondent's license, MLO license endorsement, and license rights pursuant to
10 the provisions of Code sections 10166.051(a), 10166.051(b), 10177(d), 10177(g) and/or
11 10177(j).

12 GROUND FOR DISCIPLINARY ACTION

13 23.

14 **Section 10166.05 of the Code** provides in pertinent part, "Notwithstanding any
15 other provision of law, the commissioner shall not issue a license endorsement to act as a
16 mortgage loan originator to an applicant unless the commissioner makes all of the following
17 findings:

18 ...

19 (c) The applicant has demonstrated such financial responsibility, character, and
20 general fitness as to command the confidence of the community and warrant a determination
21 that the mortgage loan originator will operate honestly, fairly, and efficiently within the
22 purposes of this article."

23 24.

24 **Section 10166.051 of the Code** provides in pertinent part, "...the commissioner
25 may do one or more of the following, after appropriate notice and opportunity for hearing:

26 (a) Deny, suspend, revoke, restrict, or decline to renew a mortgage loan
27 originator license endorsement for a violation of this article, or any rules or regulations adopted

1 hereunder.

2 (b) Deny, suspend, revoke, condition, or decline to renew a mortgage loan
3 originator license endorsement, if an application or endorsement holder fails at any time to
4 meet the requirements of Section 10166.05 or 10166.09, or withholds information or makes a
5 material misstatement in an application for a license endorsement or license endorsement
6 renewal.”

7 25.

8 Section 10177 of the Code provides in pertinent part, “[t]he Commissioner may
9 suspend or revoke the license of a real estate licensee, delay the renewal of a license of a real
10 estate licensee, or deny the issuance of a license to an applicant, who has done any of the
11 following...

12 ...

13 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing
14 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and
15 regulations of the commissioner for the administration and enforcement of the Real Estate Law
16 and Chapter 1 (commencing with Section 11000) of Part 2.

17 ...

18 (g) Demonstrated negligence or incompetence in performing an act for which
19 the officer, director, or person is required to hold a license.

20 ...

21 (j) Engaged in any other conduct, whether of the same or of a different character
22 than specified in this section, that constitutes fraud or dishonest dealing.

23 COSTS

24 (INVESTIGATION AND ENFORCEMENT COSTS)

25 26.

26 Section 10106 of the Code, provides, in pertinent part, that in any order issued in
27 resolution of a disciplinary proceeding before the Department, the Commissioner may request

1 the administrative law judge to direct a licensee found to have committed a violation of this
2 part to pay a sum not to exceed the reasonable costs of investigation and enforcement of the
3 case.

4 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
5 this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
6 action against the license(s), MLO endorsement, and/or license rights of Respondent
7 STEPHEN WILLIAM SMITH JR under the Real Estate Law, for the costs of investigation and
8 enforcement as permitted by law and for such other and further relief as may be proper under
9 other applicable provisions of law.

10
11 Dated at San Diego, California this 20 day of October, 2022.

12
13 *Veronica Kilpatrick*

14 _____
15 Veronica Kilpatrick
16 Supervising Special Investigator
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25 cc: STEPHEN WILLIAM SMITH JR
26 Veronica Kilpatrick
27 Sacto.